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The judgment of the circuit court, sustaining the demurrer to the evidence, is without error, and must be affirmed.

Affirmed.

**Note.**

The hopeless conflict between the decisions in this state as to the degree of care due licensees and trespassers by railroad companies, is pointed out by Robert W. Withers in a learned article in 12 Va. Law Reg. 419. The principal case recognizes in terms a distinction between the duty owing to trespassers and bare licensees, which Mr. Withers says was the doctrine of former decisions in Virginia.

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**DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**

**Supreme Court of Appeals.**

**Note.**—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

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**N. M. MATTHEWS & CO. v. PROGRESS DISTILLING CO.**

Nov. 19, 1908.

[62 S. E. 924.]

**Appeal and Error (§ 1195\*)—Time of Taking Proceedings—Finality of Decision.**—Proceedings were instituted by creditors to ascertain the liens against their common debtor, the order of their priority, and to subject his property to their payment. An exception was filed to the report of the commissioner which was sustained by the court, and an appeal taken. The Supreme Court reversed the decree of the lower court, and pronounced the decree which should have been pronounced below, and the case was remanded for further proceedings. Held, that the decision of the Supreme Court was final and imparted finality to the decision of the court below on the expiration of the period within which under the rules of the Supreme Court a petition to rehear could be filed, and a petition to review the judgment of the lower court must be brought within one year after the allowance of the final decree as provided by Code 1904, § 3435.

[Ed. Note.—For other cases, see Appeal and Error, Dec. Dig. § 1195.\*]

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\*For other cases see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.